

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ROBERT G. PELL, JR.,
Plaintiff,

vs.

CAPCO STEEL CORPORATION,
Defendant.

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C.A. No.

NOTICE OF REMOVAL

The Defendant, Capco Steel, LLC, f/k/a Zakia Management Company, LLC, as surviving entity of merger involving Capco Steel Corp. ("Capco"), pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446, for purposes of removing this case to the United States District Court for the District of Massachusetts states the following:

1. On or about March 3, 2011, Plaintiff, Robert G. Pell, Jr., commenced a civil action against Capco in the Commonwealth of Massachusetts, Superior Court Dept. of the Trial Court, Suffolk County, captioned Robert G. Pell, Jr. v. Capco Steel Corporation, Civil Action No. 11-0890A (the "State Court Action"). A copy of Plaintiff's Complaint (the "Complaint") is attached hereto as Exhibit A. The Complaint asserts that Capco violated the Age Discrimination in Employment Act of 1967. The nature of the Plaintiff's allegations is stated more fully in the Complaint. Capco denies any and all liability for the Plaintiff's claims. The above-described action is a civil action that may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441 based on federal question jurisdiction.

2. The Complaint, Summons and Civil Cover Sheet constitute all process, pleadings and/or orders received by Capco to date within the meaning and intent of 28 U.S.C. § 1446.

3. On April 21, 2011, Capco received a copy of Plaintiff's Summons dated April 21,

2011, and a copy of the Complaint.

4. This Notice of Removal is timely filed. Section 1446(b) of Title 28 of the United States Code requires that a notice of removal be filed within thirty (30) days from receipt of a pleading establishing federal jurisdiction. Within thirty (30) days after Capco first received notice of the Summons and Complaint filed by Plaintiff in the State Court Action, Capco filed its Notice of Removal.

5. This action arises under a federal law such that this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331. As alleged in the Complaint, Plaintiff has asserted that Capco violated the Age Discrimination in Employment Act of 1967. Therefore, Capco is entitled to remove this action pursuant to 28 U.S.C. § 1441.

6. The requirement under 28 U.S.C. § 1446(b) that all defendants join in the notice of removal has been satisfied as this Notice of Removal is filed on behalf of Capco and there are no other defendants named in the State Court Action.

7. The action is removable to this Court pursuant to 28 U.S.C. § 1441(a) in that the captioned District Court sits in the district and division embracing the place where the State Court Action is pending.

8. Promptly after filing this Notice of Removal of the State Court Action, Capco will give written notice of such filing to the Plaintiff and will file a copy of the Notice of Removal with the Clerk of the State Court, which shall effect the removal of the State Court Action, and the State Court shall proceed no further unless and until the case is remanded.

WHEREFORE, Capco prays that this Notice of Removal be accepted as good and sufficient, that the aforesaid Complaint be removed from the State Court to the District Court for trial and determination as provided by law, and that this civil action proceed as if it had

originally been commenced in the District Court.

SO NOTICED this 11th day of May 2011.

DEFENDANT,
Capco Steel, LLC, f/k/a Zakia Management
Company, LLC, as surviving entity of merger
involving Capco Steel Corp.,
By its Attorneys,

/s/ Theresa L. Sousa
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CERTIFICATE OF SERVICE

I hereby certify that this document (s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on May 11, 2011.

/s/ Theresa L. Sousa